IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12361 of 2004

Between:

Pavuluri Satyanarayana, S/o Sriramaiah,
R/o Pedakonduru Village, Kaligiri Mandal, Nellore District

..... PETITIONER

AND

1 The Engineer-in-Chief, Roads and Buildings, Errum Manzil, Hyderabad
2 The Executive Engineer, Roads & Buildings (Roads), Tirupathi, Chittoor District
3 The Assistant Engineer (R & B) Srikalahasti-1, Chittoor District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of Mandamus declaring the action of the respondents in auctioning the right to collect tolls at the toll gate at KM.85/10 near Srikalahasti on Puthalpet Naidupet Road in Chittoor District but handing over the toll gate at KM.88/8 as illegal, arbitrary and unconstitutional and consequently direct the respondents to handover the toll gate at KM.85/10 near Srikalahasti.

Counsel for the Petitioner: MR.SRINIVASA RAO BODDULURI

Counsel for the Respondent Nos.1 to 3: GP FOR ROADS & BUILDINGS

The Court at the stage of admission made the following :

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ORAL ORDER:

The petitioner is the highest bidder in the auction conducted in pursuance of tender notification dated 27.04.2004 in respect of the leasehold rights for collecting tolls for the bridge on Swarnamukhi river at KM 85/10 on Puthalpet Naidupet Road – Bye-pass Road to Srikalahasti Town in Chittoor District. The petitioner states that he made all the necessary deposits and an agreement has also been executed in his favour and the second respondent issued a letter permitting him to enter the tollgate as specified in the agreement. His case is that as per the schedule to the agreement the toll gate is situated at KM 85/10. However, on 02.06.2004 the 3rd respondent came to the site and asked the petitioner to open the tollgate at KM 88/8 on Puthalapattu-Naidupet Road-Byepass road to Srikalahasti town, instead of KM 85/10, which was actually auctioned and for which tenders were called for. The grievance of the petitioner is that

KM 85/10 which is on Puthalpet Naidupet Road 200 meters from the bridge on Swarnamukhi River is the actual bridge put for auction and the respondents are not justified in handing over the road at KM 88/8 which is about 400 meters after the bridge. It is stated that the volume of traffic at KM 88/8 is less than the volume of the traffic at KM 85/10 and that the entire action of the respondents is arbitrary and illegal. Hence, this writ petition seeking a declaration that the action of the respondents is arbitrary and illegal and to direct them to hand over the toll gate at KM 85/10.

I am afraid that the relief as sought for cannot be granted in exercise of the jurisdiction under Article 226 of the Constitution of India since the issues raised are essentially founded on a dispute between the parties pursuant to contract entered into between them. Such dispute, which involves enforcement of contractual obligation, is not amenable to writ jurisdiction. However, learned counsel for the petitioner submits that the petitioner has already made several representations to the Executive Engineer, Roads and Buildings (Roads), Tirupathi, requesting to revoke the mistake and to permit him to collect tolls at KM 85/10 and the said representations are still pending with the authority.

In the circumstances, I deem it appropriate to dispose of the writ petition with a direction to the Executive Engineer, Roads and Buildings (Roads), Tirupathi-second respondent herein to consider the representation made by the petitioner dated 07.07.2004 and to pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of at the admission stage. No costs.

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19th July, 2004

*Nsr/Ars

Note:

Issue CC in two days.

B/O

*Nsr/Ars

ASSISTANT REGISTRAR

// TRUE COPY//

SECTION OFFICER

To

1 The Engineer-in-Chief, Roads and Buildings, Errum Manzil, Hyderabad
2 The Executive Engineer, Roads & Buildings (Roads), Tirupathi, Chittoor District
3 The Assistant Engineer (R & B) Srikalahasti-1, Chittoor District

4. Two CCs to GP for Roads and Buildings, High Court Buildings, Hyderabad (OUT)

5. Two CD copies.